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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,531	10/26/2001	Ken A. Nishimura	100100321-1	2565

7590 10/05/2005

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
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EXAMINER	
LEE, DAVID J	

ART UNIT	PAPER NUMBER
2633	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/007,531	NISHIMURA ET AL.	
	Examiner	Art Unit	
	David Lee	2633	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-8 and 11-28*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

In regards to claims 1, 7, 8, 19, 20, and 25 with respect to all the references, Examiner notes Applicant's emphasis on the preamble "a method for perfoming time-domain equalization." However, it is merely a statement of intended use and does not provide antecedent for terms in the body of the claim, and therefore is non-limiting.

Regarding claim 1, Applicant argues that Killat does not disclose any method steps. However, since Killat discloses an apparatus, it follows that a method is needed to use the apparatus.

Regarding claim 14, Applicant argues that Killat does not disclose two beams having an intensity ratio. However, it is the Examiner's position that any two beams can have an intensity ratio. The disclosure of an intensity ratio is not limiting in that a ratio is merely a comparision of two values - if there exists two values, a ratio exists as well.

Regarding claims 20 and 25, Applicant argues that Killat does not disclose means for combining the respective electrical signal components to generate an electrical output signal representing the light pulse after correction of the impulse response impairment. However, in figure 1 of Killat, element 28 combines the signals after performing each of the claimed steps. Since each step of Killat is the same as each step of the Applicant, it follows that Killat is capable of performing correction of impairments as disclosed in the claim.

Regarding claims 20 and 25, Applicant argues that Killat does not disclose means for combining the respective electrical signal components to generate an electrical output signal representing the light pulse after correction of the impulse response impairment. However, it is clear in figure 1, that element 28 combines the signals after the previous steps. Since each step of Killat is the same as each step of the Applicant, it follows that Killat is capable of performing correction of impairments as disclosed in the claim.

Regarding claims 1 and 20, Applicant argues that Lewis does not disclose means for combining the respective electrical signal components to generate an electrical output signal representing the light pulse after correction of the impulse response impairment. However, as disclosed in the Office action, since each step of Lewis is the same as each step of the Applicant, it follows that Lewis is capable of performing correction of impairments as disclosed in the claim.

Regarding claim 1, Applicant argues that Wickham does not disclose means for combining the respective electrical signal components to generate an electrical output signal representing the light pulse after correction of the impulse response impairment. However, as disclosed in the Office action, since each step of Wickham is the same as each step of the Applicant, it follows that Wickham is capable of performing correction of impairments as disclosed in the claim.

Regarding claims 7, 19, 25, and their respective 103 rejections, in view of the non-limiting preamble as disclosed above, the combination of references and their corresponding motivations are clear and proper.

M. R. Sedighian

M. R. SEDIGHIAN
PRIMARY EXAMINER